



6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA-R06-OAR-2015-0852; FRL-9945-40-Region 6]

Approval and Promulgation of Implementation Plans; AR; Redesignation of the Crittenden County, 2008 8-Hour Ozone Nonattainment Area to Attainment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: On December 10, 2015, the State of Arkansas, through the Arkansas Department of Environment Quality (ADEQ), submitted a request for the Environmental Protection Agency (EPA) to redesignate the portion of Arkansas that is within the Memphis, Tennessee-Mississippi-Arkansas (Memphis, TN-MS-AR) 2008 8-hour ozone nonattainment area (hereafter referred to as the “Memphis, TN-MS-AR Area” or “Area”) and to approve a State Implementation Plan (SIP) revision containing a maintenance plan for the Area. EPA has determined that the Memphis, TN-MS-AR Area is attaining the 2008 8-hour ozone national ambient air quality standards (NAAQS); is approving the State’s plan for maintaining attainment of the 2008 8-hour ozone NAAQS in the Area, including the motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_x) and volatile organic compounds (VOC) for the years 2012 and 2027 for the Arkansas portion of the Area, into the SIP; and is redesignating the Arkansas portion of the Area to attainment for the 2008 8-hour ozone NAAQS. EPA is also notifying the public of the status of EPA’s adequacy determination for the MVEBs for the Arkansas portion of the Memphis, TN-MS-AR Area.

DATES: This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA-R06-OAR-2015-0852. All documents in the docket are listed on the <http://www.regulations.gov> Web site. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through <http://www.regulations.gov> or in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202-2733.

FOR FURTHER INFORMATION CONTACT: Jeffrey Riley, 214-665-8542, riley.jeffrey@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document “we,” “us,” and “our” means the EPA.

I. Background

The background for this action is discussed in detail in our February 10, 2016 proposal (81 FR 7046). In that document, we proposed to determine that the Memphis, TN-MS-AR Area is continuing to attain the 2008 8-hour ozone NAAQS; to approve and incorporate into the Arkansas SIP the State’s plan for maintaining attainment of the 2008 8-hour ozone standard in the Area, including the 2012 and 2027 MVEBs for NO_x and VOC for Arkansas’ portion of Memphis, TN-MS-AR Area; and to redesignate the Arkansas portion of the Area to attainment for the 2008 8-hour ozone NAAQS. In that notice, EPA also notified the public of the status of the Agency’s adequacy determination for the NO_x and VOC MVEBs for Arkansas’ portion of

the Memphis, TN-MS-AR Area. No comments were received. The details of Arkansas' submittal and the rationale for EPA's actions are further explained in the February 10, 2016 proposal.

II. What are the Effects of These Actions?

Approval of Arkansas' redesignation request changes the legal designation of Crittenden County in the Arkansas portion of the Memphis, TN-MS-AR Area, found at 40 CFR 81.325, from nonattainment to attainment for the 2008 8-hour ozone NAAQS. Approval of Arkansas' associated SIP revision also incorporates a plan into the SIP for maintaining the 2008 8-hour ozone NAAQS in the Arkansas portion of the Memphis, TN-MS-AR Area through 2027. The maintenance plan establishes NO_x and VOC MVEBs for 2012 and 2027 for the Crittenden County portion of the Memphis, TN-MS-AR Area and includes contingency measures¹ to remedy any future violations of the 2008 8-hour ozone NAAQS and procedures for evaluation of potential violations. The MVEBs, in tons per day (tpd) for the Arkansas portion of the Memphis, TN-MS-AR Area along with the allocations from the safety margin, are provided in the table below.²

MVEBs for the Arkansas portion of the Memphis, TN-MS-AR Area (tpd)

	2012		2027	
	NO_x	VOC	NO_x	VOC
On-Road Emissions	13.04	2.35	5.18	0.98
Safety Margin Allocated to MVEB	N/A	N/A	6.29	1.10

¹ On January 20, 2016, ADEQ clarified ADEQ's commitment is to adopt and implement contingency measures upon a violation-triggering event if it is determined that the violation is caused by a source or sources within Crittenden County. Clarification Letter from Stuart Spencer to Ron Curry, January 20, 2016 (Clarification Letter). A copy is contained in the docket for this rulemaking.

² Arkansas has chosen to allocate a portion of the available safety margin to the NO_x and VOC MVEBs for 2027. ADEQ has allocated 6.29 tpd to the 2027 NO_x MVEB and 1.10 tpd to the 2027 VOC MVEB.

Conformity MVEB	13.04	2.35	11.47	2.08
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III. Final Actions

EPA is taking three separate final actions regarding the Memphis, TN-MS-AR Area's redesignation to attainment and maintenance of the 2008 8-hour ozone NAAQS. First, EPA is determining that the Memphis, TN-MS-AR Area is continuing to attain the 2008 8-hour ozone NAAQS.

Second, EPA is approving and incorporating the maintenance plan (including the Clarification Letter) for the Memphis, TN-MS-AR Area, including the NO_x and VOC MVEBs for 2012 and 2027, into the Arkansas SIP. The maintenance plan demonstrates that the Area will continue to maintain the 2008 8-hour ozone NAAQS through 2027, and the budgets meet all of the adequacy criteria contained in 40 CFR 93.118(e)(4) and (5).

Third, EPA is determining that Arkansas has met the criteria under CAA section 107(d)(3)(E) for the Memphis, TN-MS-AR Area for redesignation from nonattainment to attainment for the 2008 8-hour ozone NAAQS. On this basis, EPA is approving Arkansas' redesignation request for the 2008 8-hour ozone NAAQS for the Arkansas portion of the Memphis, TN-MS-AR Area. As mentioned above, approval of the redesignation request changes the official designation of Crittenden County in the Arkansas portion of the Memphis, TN-MS-AR Area for the 2008 8-hour ozone NAAQS from nonattainment to attainment, as found at 40 CFR part 81.

EPA is also notifying the public that EPA finds the newly-established NO_x and VOC MVEBs for the Arkansas portion of the Memphis, TN-MS-AR Area adequate for the purpose of transportation conformity. Within 24 months from this final rule, the transportation partners will

need to demonstrate conformity to the new NO_x and VOC MVEBs pursuant to 40 CFR 93.104(e)(3).

IV. Statutory and Executive Order Reviews

Under the Clean Air Act, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION OF THIS DOCUMENT IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects**40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

40 CFR Part 81

Environmental protection, Air pollution control.

Dated: April 13, 2014.

Ron Curry,

Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart E – Arkansas

2. In §52.170(e) the third table titled “EPA-Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Arkansas SIP” is amended by adding an entry at the end of the table for “2008 8-hour ozone Redesignation Request, Maintenance Plan, and Clarification Letter for the Crittenden County portion of Memphis, TN-AR-MS Nonattainment Area” to read as follows:

§52.170 Identification of plan.

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(e) * * *

**EPA APPROVED NON-REGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE
ARKANSAS SIP**

Name of SIP provision	Applicable geographic or nonattainment area	State submittal/ effective date	EPA approval date	Explanation
* * * * *				

2008 8-hour ozone Redesignation Request, Maintenance Plan, and Clarification Letter for the Crittenden County portion of Memphis, TN-AR-MS Nonattainment Area	Crittenden County portion of Memphis, TN-AR-MS Nonattainment Area	12/10/2015	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
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PART 81-DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

3. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

4. In § 81.304, the table entitled “Arkansas-2008 8-Hour Ozone NAAQS (Primary and secondary)” is amended by revising the heading of the entry for “Memphis, TN-MS-AR Crittenden County” to read as follows:

§ 81.304 Arkansas.

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Arkansas-2008 8-Hour Ozone NAAQS (Primary and secondary)

Designated area	Designation		Classification	
	Date ¹	Type	Date ¹	Type
Memphis, TN-MS-AR ² Crittenden County	[Insert date of publication in the Federal Register]	Attainment		
**	**	*	*	*

¹ This date is July 20, 2012, unless otherwise noted.

² Excludes Indian country located in each area, unless otherwise noted.

³ Includes any Indian country in each county or area, unless otherwise specified

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